

- sufficient capacity of health care providers to implement provider-initiated testing and counselling under the conditions of informed consent, confidentiality and counselling; and
- sufficient programmatic attention to protecting people from stigma and discrimination.

In addition, the OSI paper has helped inform a background paper⁵ and a policy statement on HIV testing and counselling for prisoners. These were commissioned in July 2007 by UNODC and WHO. The two agencies recognized that while the WHO and UNAIDS Guidelines briefly address issues related to HIV testing and counselling for prisoners, there is a need for more in-depth analysis of these issues, to respond to two major concerns:

- firstly, that there is a risk that the WHO and UNAIDS Guidelines

will be misinterpreted and used to justify more routine forms of HIV testing that fail to ensure that prisoners provide truly informed consent; and

- secondly, that, on the other side, there is a risk that prisoners will be left out of efforts to scale up access to HIV testing and counselling, and continue being left out of efforts to scale up access to prevention, treatment, care and support.

The background paper was first discussed at an international consultation on HIV testing and counselling for prisoners held in Varna, Bulgaria, on 26 September 2007. In November 2007, the draft policy statement on HIV testing and counselling for prisoners was scheduled to be disseminated to solicit feedback from a wide range of experts. It is expected that the policy statement will be finalized in early 2008. A similar process will

be used to develop a policy statement on HIV testing and counselling for people who use drugs.

– Ralf Jürgens, Jonathan Cohen, Françoise Girard and Chris Beyrer

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¹ WHO and UNAIDS, *Guidance on Provider-initiated HIV Testing and Counselling in Health Facilities*, 2007. Available via www.unaids.org.

² R. Jürgens, *Increasing Access to HIV Testing and Counselling While Respecting Human Rights — Background Paper*, OSI, August 2007. At www.soros.org/initiatives/health/articles_publications/publications/testing_20070907.

³ UNAIDS Reference Group on HIV and Human Rights, *Statement and Recommendations on Scaling Up HIV Testing and Counselling*, 2007. At http://data.unaids.org/pub/ExternalDocument/2007/20070905_rghr_statement_testing_en.pdf.

⁴ *Ibid.*

⁵ UNODC and WHO, *HIV Testing and Counselling for Prisoners — Draft Background Paper*, September 2007.

Comprehensive care: palliative care and legal services in South Africa

A fundamental and neglected part of the global response to HIV and AIDS, palliative care is also a critical entry-point for legal services. As Tamar Ezer and Joan Marston write, providing legal services to patients in palliative care can both protect human rights and improve health outcomes.

In South Africa, a newly-formed reference committee of palliative care and legal service providers is carrying forward an initiative to integrate

legal and human rights advocacy and services into hospices and palliative care programs. In a country where 5.54 million people are infected with

HIV — almost 13 percent of the population — and where the infection rate among pregnant women is 30.2 percent,¹ this comprehensive package

of services is crucial for addressing both acute physical needs and the social dimensions of the epidemic.

Palliative care aims to improve the quality of life for patients and families facing life-threatening diseases by relieving pain and suffering through the provision of physical, psychosocial and spiritual care.² Dealing with legal and human rights issues that arise is thus a natural part of this holistic approach. Providing legal services to people in palliative care not only can protect their rights, but also can reap improvements in their health, well-being and quality of life.

People living with HIV/AIDS often face complicated legal questions related to the disposition of property, planning for children, gaining access to social benefits, and combating discrimination in employment, housing and education. Children, elderly caregivers and child- and youth-headed households are particularly vulnerable to human rights abuse.

The reference committee initiative aims to create the partnerships necessary between the palliative care and legal communities for the provision of comprehensive services that enable both pain management and the tackling of important social concerns. With a robust legal community in addition to a growing network of hospice and palliative care providers, South Africa is an ideal place to pilot such an integrated initiative.

Based in Cape Town, the reference committee is made up of three working groups composed of legal and palliative care practitioners from across South Africa. The working groups focus on the need for materials straddling both the palliative care and legal disciplines; the integration of legal services in hospices; and advocacy for improving access to palliative care (including pain relief) in the public sector as a basic human right.

Projects already underway include a joint paralegal and palliative care manual on comprehensive end-of-

life services, a university law student placement in a hospice to defend the rights of palliative care patients, and a background paper and curriculum exploring legal arguments and mechanisms to promote palliative care as a human right. It is hoped that the project will serve as a model for the integration of health and legal services in other disciplines and regions.

– Tamar Ezer and Joan Marston

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¹ South African Department of Health, *National Strategic Plan for HIV, AIDS, TB and STIs 2007-2011*.

² World Health Organization Definition of Palliative Care, 2002. At www.who.int/cancer/palliative/definition/en/print.html.

Legal aid works! Harm reduction and legal services in Poltava, Ukraine

Drug users' inability to protect their rights makes them easy targets for extortion and false arrest by law enforcement officials, writes Maxim Demchenko, a lawyer from Poltava. In response, a legal aid project supported by LAHI and OSI's International Harm Reduction Development Program (IHRD) has succeeded in defending drug users against criminal charges and changing the attitudes of some police officers.

Ukraine has obligations under both national and international law to respect the human rights of people liv-

ing with HIV and those who are vulnerable to HIV infection from the use of illicit drugs. For these obligations

to be met, the cooperation of all government authorities, particularly the Internal Affairs agencies, is essential.